

REMARKS

In the foregoing amendments, Applicants insert the limitations of claims 4 and 5 into claim 1 and cancel claims 4 and 5. Applicant amends claim 1 to include an outer layer on the innermost layer and to make editorial changes to other claims. Support for the outer layer can be found in original claims 6 and 7. Currently, claims 1-3 and 6-13 pend in the application for consideration by the Examiner.

The Office Action rejected claims 1-3 and 6-13 under 35 U.S.C. §103(a) as being unpatentable over Mori (JP 2002-306059 with EP 1 380 212 A1 used as English translation) in view of Grolig (US 7,001,858 B2) on pages 2-4 of the Office Action. Applicants respectfully submit that the inventions defined in claims 1-3 and 6-13 are patently distinguishable from the teachings of Mori and Grolig for at least the following reasons.

The Office Action stated that Mori teaches a monolayer casing (§ 0022) for food which comprises polyvinylpyrrolidone and a thermoplastic resin (i.e., polyamide resin) (§ 0009). The Office Action cited Grolig as teaching a multilayer casing having a polyamide innermost layer, polyethylene middle layer, and polyamide outer layer (OA 3). The Office Action concluded that it would have been obvious to add the polyethylene and polyamide layers of Grolig to the monolayer casing of polyamide and crosslinked polyvinylpyrrolidone of Mori, where the extra layers of Grolig serve to prevent the flow of liquid contained in the casing to outside the casing (OA 3).

Applicants respectfully submit that the teachings of Mori and Grolig do not disclose or suggest all the structures required in the present claims and do not provide any reason for combining their respective teachings in a manner alleged in the outstanding Office Action. It appears that the Office Action is equating the monolayer casing of Mori to the innermost layer of the presently claimed multilayer tube. However, the monolayer casing of Mori contains a *crosslinked polyvinylpyrrolidone that absorbs moisture*, whereby the smoke-curing agent can be sufficiently held within the casing. See, for example, the present specification at page 5, line 31 to page 6, line 1. On the other hand, the *innermost as well as the outermost layer of Grolig are a polyamide layer and do not absorb moisture and, in fact, are barrier layers* (col. 6, ll. 11-37; col. 8, ll. 15-18). For these and other reasons, Grolig applies a coating or impregnation to the "outer surface" that contains at least one food additive (col. 4, ll. 19-20). The outer coating layer

proposed by Grolig comprises at least one binding agent and at least one food additive (col. 7, ll. 13-17).

Since the innermost layer of the multilayer tube allegedly proposed by Grolig is a polyamide layer, one of ordinary skill in the art would have no reason to apply a smoke-curing liquid thereto, as required in the present claims, because the skilled artisan would have no reasonable expectation that such a smoke-curing liquid would sufficiently bond to the polyamide layer. Furthermore, the casing of Grolig has an outermost layer containing a flavor ingredient which structure is opposite to that required in the present claims where the smoke-curing liquid is applied to the innermost layer. Thus, the structure proposed by Grolig is opposite to that required in the present claims. At least for these reasons, Applicants respectfully submit that the teachings of Mori and Grolig do not disclose all the structures or arrangement of structures as required in the present claims and do not provide any reason for combining their respective teachings in a manner that would result in the invention as presently claim. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of the presently claimed invention over Mori and Grolig.

The Official Action rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Mori and Grolig in view of Dowell (US 4,150,697) on pages 4 and 5. The Office Action stated that it would have been obvious to subject the casing of Mori and Grolig to corona discharge as taught by Dowell.

Applicant respectfully submits that the invention defined in claim 3 is patently distinguishable from the combined teachings of Mori, Grolig, and Dowell for at least the following reasons. Dowell discusses treatment of regenerated cellulose casings with surface activating energy. However, the casings proposed by Dowell are made of materials different than that required in the present claims. Applicant respectfully submits that Mori, Grolig, and/or Dowell provide no reason to one of ordinary skill in the art to apply a corona discharge treatment to a completely different material than that discussed in Dowell. Therefore, there is no reason in the combination of Mori, Grolig, and Dowell to subject a multilayer tube to corona discharge, where the multilayer tube comprises an innermost layer comprising a polyamide resin and a crosslinked polyvinylpyrrolidone (where the crosslinked polyvinylpyrrolidone is present in a proportion of about 1 to about 50% by weight, relative to content of the polyamide resin), an

outer layer arranged on the innermost layer, and a smoke-curing liquid applied to the innermost layer, as required in present claim 3.

At least for the foregoing reasons, Applicants respectfully submit that the inventions defined in claims 1-3 and 6-13 are patently distinguishable from the teachings of Mori, Grolig, and/or Dowell within the meaning of 35 U.S.C. §103. Therefore, Applicants respectfully request that the Examiner reconsider and withdrawal all rejections of Applicants' claims based on these teachings.

In view of the foregoing, Applicants submit that this application is in condition for allowance. Applicants respectfully request timely a notice to that effect. If questions arise, Applicant invites the Examiner to contact the undersigned by telephone.

If there are any problems with the payment of fees, please charge any underpayments and credit any overpayments to Deposit Account No. 50-1147.

Respectfully submitted,

/R. Eugene Varndell, Jr/
R. Eugene Varndell, Jr.
Reg. No. 29,728

Posz Law Group, PLC
12040 South Lakes Drive
Suite 101
Reston, VA 20191
Phone 703-707-9110
Fax 703-707-9112
Customer No. 23400